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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/819,899	03/29/2001	Jim Paul Haughwout	06975-144001 / Member Ser	5374
26171 7590 05/21/2007 FISH & RICHARDSON P.C. P.O. BOX 1022 MINNEAPOLIS, MN 55440-1022			EXAMINER THEIN, MARIA TERESA T	
			ART UNIT 3627	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<p align="center"><b>Advisory Action</b> <b>Before the Filing of an Appeal Brief</b></p>	<b>Application No.</b> 09/819,899	<b>Applicant(s)</b> HAUGHWOUT, JIM PAUL	
	<b>Examiner</b> Marissa Thein	<b>Art Unit</b> 3627	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 01 May 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.  
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

#### AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
 (b) ☐ They raise the issue of new matter (see NOTE below);  
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
 5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
 6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
 7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
 The status of the claim(s) is (or will be) as follows:  
 Claim(s) allowed: \_\_\_\_\_.  
 Claim(s) objected to: \_\_\_\_\_.  
 Claim(s) rejected: \_\_\_\_\_.  
 Claim(s) withdrawn from consideration: \_\_\_\_\_.

#### AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

#### REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_.  
 13. ☐ Other: \_\_\_\_\_.

Continuation of 11. does NOT place the application in condition for allowance because: The arguments are not persuasive.

Applicant remarks that "Kanevsky fails to describe or suggest "storing in a first electronic database prior to the receipt of the incoming service call from the caller, a sales pitch preference of the caller, as an additional attribute, comprising a preference of the caller not to receive any sales pitches".

The Examiner does not agree. The Examiner notes that the combination of Dhir and Kanevsky discloses "storing in a first electronic database, prior to receipt of the incoming service call from the caller, a sales pitch preference of the caller, as an additional attribute, comprising a preference of the caller not to receive any sales pitches". Dhir discloses "storing in a first electronic database, prior to receipt of the incoming service call from the caller, a sales pitch preference of the caller, as an additional attribute. Dhir discloses an system and method for routing phone calls in a service center that integrates telephony with computers to provide a positive and personalized service environment that increases caller recognition (Dhir col. 1, lines 8-12). The system employs one or more banks of centralized IVR's to permit customer input information to be gathered before call routing to call sites within the the virtual call center network (col. 3, lines 19-22). Dhir discloses a system comprising a central server system, data logger system, administrative controller system, call router database, interactive voice response (IVR) system1, and IVR system 2 (col. 4, lines 40-45). The IVR system1 and IVR system2 collect information from callers in order to route calls to the proper target such as a qualified agent at a queue at a call site (col. 5, lines 51-54). The IVR system comprises a central server IVR interface, and a series of individual IVR devices (col. 9, lines 20-22). By incorporating shared IVR systems (IVR system 1 and IVR system2) within the call routing network before a call is forwarded to a local call site, additional information can be received so that it is more likely that the correct account is recognized and the proper routing strategy is computed (col. 9, lines 51-55). The data logger system is used for logging system which provides for the storage of records reflecting the path taken by every call entering the call routing system. The data logger may store records reflecting activity levels of various peripherals, such as IVR's and call centers so that system administration personnel can evaluate long term loading levels. The logger system may provide storage of both short-term transactional data and long term historical data. (Col. 5, lines 19-30) Such incorporation of the IVR systems within the call routing network before a call is forwarded to a local call site, additional information can be received so that it is more likely that the correct account is recognized and the proper routing strategy is computed; data logger that stores records reflecting activity levels of various peripherals, such as IVRs and storing records such as short-term transactional data and long term historical data are considered "storing in a first electronic database, prior to receipt of the incoming service call from the caller, a sales pitch preference of the caller, as an additional attribute".

The Examiner then turns to Kanevsky to teach the storing a sales pitch preference of the caller, a preference of the caller not to receive any sales pitch. Kanevsky teaches a voice-oriented systems to tailor response of a voice system to an acoustically determined state of a voice system user (col. 1, lines 7-12). Kanevsky further teaches an attribute data which is stored in the data warehouse which correlates with at least one user attribute (col. 2, lines 21-23). The attribute data which is stored in the data warehouse corresponds to the acoustic feature which correlates with at least one user attribute, and is stored together with at least one identifying indicia. The data is stored in the data warehouse in a form to facilitate subsequent data mining. (Col. 2, lines 22-26) The identifying indicia can be a time stamp which correlates the various features to a conversation conducted at a given time, thereby identifying the given transaction; can be an identification number or name, which identifies the user; or can be any other item of information associated with the attribute data which is useful in the data mining process (col. 9, lines 26-32). Kanevsky provides a collection of stored data which can be mined to provide information which may be desired, for example, information to be used in modifying the underlying business logic of the voice system. (Col. 9, lines 33-42) Kanevsky teaches that for a given business objective, such as predictive models or classifiers are automatically obtained by applying appropriate mining recipes. (Col. 7, lines 41-46) Kanevsky teaches examples of business objectives such as users who have problems with the automated system and should be transferred to an operator and users who are angry at the service and should be transferred to a supervisory person (col. 7, lines 48-54). Such an attribute data which is stored in the data warehouse which correlates with at least one user attribute and is stored together with at least one identifying indicia; the identifying indicia associated with the attribute data is useful in the data mining process; a collection of stored data which can be mined to provide information which may be desired, for example, information to be used in modifying the underlying business logic of the voice system; and users who have problems with the automated system and should be transferred to an operator, and users who are angry at the service and should be transferred to a supervisory person are considered storing a sales pitch preference of the caller, a preference of the caller not to receive any sales pitch.

Applicant remarks that "Dhir and Kanevsky, either alone or in the proposed combination, fail to describe or otherwise suggest storing a sales preference in a first electronic database to be used as an additional attribute of the caller, the sales pitch preference comprising a preference of the caller not to receive a sales pitch related to a first service or product and not to receive any sales pitches related to a provider of the first service or product".

The Examiner does not agree. The Examiner notes that the combination of Dhir and Kanevsky discloses "storing a sales preference in a first electronic database to be used as an additional attribute of the caller, the sales pitch preference comprising a preference of the caller not to receive a sales pitch related to a first service or product and not to receive any sales pitches related to a provider of the first service or product". Dhir discloses "storing a sales preference in a first electronic database to be used as an additional attribute of the caller, the sales pitch preference", as discussed above.

The Examiner then turns to Kanevsky to teach comprising a preference of the caller not to receive a sales pitch related to a first service or product and not to receive any sales pitches related to a provider of the first service or product. Kanevsky teaches a voice-oriented systems to tailor response of a voice system to an acoustically determined state of a voice system user (col. 1, lines 7-12). Kanevsky further teaches an attribute data which is stored in the data warehouse which correlates with at least one user attribute (col. 2, lines 21-23).

The attribute data which is stored in the data warehouse corresponds to the acoustic feature which correlates with at least one user attribute, and is stored together with at least one identifying indicia. The data is stored in the data warehouse in a form to facilitate subsequent data mining. (Col. 2, lines 22-26) The identifying indicia can be a time stamp which correlates the various features to a conversation conducted at a given time, thereby identifying the given transaction; can be an identification number or name, which identifies the user; or can be any other item of information associated with the attribute data which is useful in the data mining process (col. 9, lines 26-32). Kanevsky provides a collection of stored data which can be mined to provide information which may be desired, for example, information to be used in modifying the underlying business logic of the voice system. (Col. 9, lines 33-42) Kanevsky teaches that for a given business objective, such as predictive models or classifiers are automatically obtained by applying appropriate mining recipes. (Col. 7, lines 41-46) Kanevsky teaches examples of business objectives such as users who are angry at the service and should be transferred to a supervisory person (col. 7, lines 48-54). Such an attribute data which is stored in the data warehouse which correlates with at least one user attribute and is stored together with at least one identifying indicia; the identifying indicia associated with the attribute data is useful in the data mining process; a collection of stored data which can be mined to provide information which may be desired, for example, information to be used in modifying the underlying business logic of the voice system; and users who are angry at the service and should be transferred to a supervisory person are considered a preference of the caller not to receive a sales pitch related to a first service or product and not to receive any sales pitches related to a provider of the first service or product.

Applicant remarks that "Dhir, Kanevsky, and Szlam either alone or in the proposed combination, fail to describe or suggest at least "a call routing code segment that causes the computer to bypass the second code segment and to route the service call to a human operator based on the identified information indicative of past misbehavior, wherein the identified information indicative of past misbehavior includes information that the caller has acted illegally or that the caller has violated a terms of service agreement associated with the caller's account".

The Examiner does not agree. Dhir was cited the call routing code segment that causes the call computer to bypass the second database code segment, as pointed out in the Final Office Action of December 15, 2006. Kanevsky was cited for routing the call to a human operator based on the identified information indicative of the past misbehavior. Kanevsky discloses storing attribute data corresponding to the acoustic feature in the data warehouse (col. 2, lines 9-10). The attribute includes emotional state (col. 2, lines 17-21). The emotional categories include hot anger, cold anger, panic, shame, contempt, disgust and pride (col. 6, line 67 - col. 5, line 4). The attribute data which is stored in the data warehouse corresponds to the acoustic feature which correlates with at least one user attribute, and is stored together with at least one identifying indicia. The data is stored in the data warehouse in a form to facilitate subsequent data mining. (Col. 2, lines 22-26) The identifying indicia can be a time stamp which correlates the various features to a conversation conducted at a given time, thereby identifying the given transaction; can be an identification number or name, which identifies the user; or can be any other item of information associated with the attribute data which is useful in the data mining process (col. 9, lines 26-32). Kanevsky provides a collection of stored data which can be mined to provide information which may be desired, for example, information to be used in modifying the underlying business logic of the voice system. (Col. 9, lines 33-42) Examples include a user who is angry at the service should be transferred to a supervisory person (col. 7, lines 52-54). Such storing of the attribute which includes emotional state, such as anger, contempt, shame, and disgust; attribute data which is stored in the data warehouse corresponds to the acoustic feature which correlates with at least one user attribute, and is stored together with at least one identifying indicia; the identifying indicia can be a time stamp which correlates the various features to a conversation conducted at a given time, thereby identifying the given transaction, which identifies the user, or can be any other item of information associated with the attribute data which is useful in the data mining process; a collection of stored data which can be mined to provide information which may be desired, for example, information to be used in modifying the underlying business logic of the voice system; and a user who is angry at the service should be transferred to a supervisory person are all considered routing the service call to a human operator based on the identified information indicative of past misbehavior. Szlam was then cited for teaching the past misbehavior which includes information that the caller has violated a terms of service agreement associated with the caller's account. In col. 8, lines 20-26, Szlam teaches the customer account number and past misbehavior a late payment account and a delinquent account. Such late payment and delinquent account are considered past misbehavior of violating a terms of service agreement associated with the caller's account.

 5/17/07  
**F. RYAN ZEENDER**  
**SUPERVISORY PATENT EXAMINER**